

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

U.S. OIL TRADING LLC,

Plaintiff,

V.

M/V VIENNA EXPRESS, her tackle, boilers, apparel, furniture, engines, appurtenances, etc., *in rem*, and M/V SOFIA EXPRESS, her tackle, boilers, apparel, furniture, engines, appurtenances, etc., *in rem*,

Defendants.

IN ADMIRALTY

CASE NO.:

VERIFIED COMPLAINT

Plaintiff, U.S. Oil Trading LLC (“USOT”), by its undersigned attorneys, complaining of the defendants M/V VIENNA EXPRESS and M/V SOFIA EXPRESS (collectively, the “Vessels”), *in rem*, alleges upon information and belief as follows:

PARTIES

1. At all relevant times, plaintiff USOT was and now is a limited liability company duly organized and existing under the laws of the State of Delaware, with an office and place of business at 3001 Marshall Avenue, Tacoma, Washington 98421.

2. At all relevant times, the defendant M/V VIENNA EXPRESS was and now is engaged in the common and/or private carriage of cargo on the high seas between ports of the world, including the port of Tacoma, Washington and elsewhere in the United States,

during the pendency of process herein, is now or will be within the navigable waters of this District and within the jurisdiction of this Honorable Court.

3. At all relevant times, the defendant M/V SOFIA EXPRESS was and now is engaged in the common and/or private carriage of cargo on the high seas between ports of the world, including the port of Tacoma, Washington and elsewhere in the United States, during the pendency of process herein, is now or will be within the navigable waters of this District and within the jurisdiction of this Honorable Court.

JURISDICTION AND VENUE

4. This is a case of Admiralty and Maritime jurisdiction pursuant to 28 U.S.C. §1333, and is an Admiralty or Maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

5. This action is commenced pursuant to the Maritime Commercial Instruments and Liens Act, 46 U.S.C. §§ 31301, *et seq.*

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391 in that the Vessels which are the subject of this action are or will soon be located within this District.

**FIRST CAUSE OF ACTION: MARITIME LIEN
AGAINST THE M/V VIENNA EXPRESS FOR THE VESSEL'S
FAILURE TO PAY FOR NECESSARIES FURNISHED TO THE VESSEL.**

7. Plaintiff repeats and realleges paragraphs 1 through 6 of the Complaint with the same force and effect as if repeated and set forth at length herein.

8. On or about October 15, 2014, the owners and/or operators and/or charterers and/or the agents of the M/V VIENNA EXPRESS entered into an agreement with brokers O.W. Bunker & Trading A/S (“OWB”) to arrange for the delivery of bunker fuel to the vessel at the port of Tacoma, Washington on or about October 18, 2014.

9. On or about the same day, USOT, as sellers, and OWB, as buyers, entered into an agreement for the sale and delivery of approximately 2,700 metric tons of bunkers to the vessel at the port of Tacoma, Washington on or about October 17, 2014. True

1 and accurate copies of USOT's sales authorization and sales confirmation are attached hereto
2 as Exhibit 1.

3 10. On or about October 18, 2014, USOT delivered approximately 2,710.93
4 metric tons of bunker fuel to the vessel at the port of Tacoma, Washington, which the vessel
5 accepted and acknowledged by stamping USOT's bunker delivery receipt for the delivery. A
6 true and accurate copy of USOT's bunker delivery receipt stamped by the vessel is attached
7 hereto as Exhibit 2.

8 11. USOT's bunker delivery receipt states in relevant part:

9 **DISCLAIMERS:** No disclaimer stamp of any type or form will
10 be accepted on this bunker certificate, nor should any such stamp
11 . . . alter, change or waive U.S. Oil's Maritime Lien against the
vessel or waive the vessel's ultimate responsibility and liability
for the debt incurred through this transaction.

12 12. USOT's bunker delivery receipt also states:

13 **MARITIME LIENS:** All disputes arising out of this transaction
14 shall be interpreted and enforced in accordance with the general
15 maritime law of the United States of America and all statutes
related thereto.

16 13. On or about October 18, 2014, USOT issued its Invoice No. BWTD
17 83451 to OWB in the amount of \$1,414,594.53 for the delivery of bunkers to the vessel. A
18 true and accurate copy of USOT's Invoice No. BWTD 83451 is attached hereto as Exhibit 3.

19 14. Pursuant to Invoice No. BWTD 83451, payment was due to USOT on or
20 before November 17, 2014.

21 15. USOT has not been paid by the vessel or OWB for the amounts due
22 under Invoice No. BWTD 83451 despite repeated demands by USOT for payment.

23 16. The failure of OWB, or anyone else on behalf of the vessel, to pay for
24 the bunker fuel furnished to the vessel creates a maritime lien by operation of law against the
25 vessel in favor of USOT.

17. USOT possesses a maritime lien against the vessel for the full amount of due under USOT's Invoice No. BWTD 83451, plus interest and costs.

18. USOT has the right to exercise all the rights and remedies provided to holders of maritime liens, including the right to enforce its maritime lien against the vessel pursuant to the Commercial Instruments and Maritime Lien Act, 46 U.S.C. §§ 31301, *et seq.*

19. USOT has suffered damages as a result of the failure of the vessel to pay the amounts owed for the bunker fuel furnished to the Vessel by USOT.

20. On November 28, 2014, the vessel’s protection and indemnity association, as agent for the vessel’s owners, issued a letter of undertaking in favor of USOT in exchange for USOT’s promise to refrain from arresting the vessel to enforce USOT’s maritime lien (the “LOU”).

21. Pursuant to the express terms of the LOU, the LOU stands as security in favor of USOT for USOT's maritime lien claim against the vessel, *in rem*, with the same force and effect as if the Vessel had been arrested at 12:00 p.m. on November 29, 2014.

**SECOND CAUSE OF ACTION: MARITIME LIEN
AGAINST THE M/V SOFIA EXPRESS FOR THE VESSEL'S
FAILURE TO PAY FOR NECESSARIES FURNISHED TO THE VESSEL.**

22. Plaintiff repeats and realleges paragraphs 1 through 21 of the Complaint with the same force and effect as if repeated and set forth at length herein.

23. On or about October 28, 2014, the owners and/or operators and/or charterers and/or the agents of the M/V SOFIA EXPRESS entered into an agreement with brokers O.W. Bunker & Trading A/S (“OWB”) to arrange for the delivery of bunker fuel to the vessel at the port of Tacoma, Washington on or about October 29, 2014.

24. On or about the same day, USOT, as sellers, and OWB, as buyers, entered into an agreement for the sale and delivery of approximately 2,700 metric tons of bunkers to the vessel at the port of Tacoma, Washington on or about October 29, 2014. True

1 and accurate copies of USOT's sales authorization and sales confirmation are attached hereto as
2 Exhibit 4.

3 25. On or about October 29, 2014, USOT delivered approximately 2,680.22
4 metric tons of bunker fuel to the vessel at the port of Tacoma, Washington, which the vessel
5 accepted and acknowledged by stamping USOT's bunker delivery receipt for the delivery. A
6 true and accurate copy of USOT's bunker delivery receipt stamped by the vessel is attached
7 hereto as Exhibit 5.

8 26. USOT's bunker delivery receipt states in relevant part:

9 **DISCLAIMERS:** No disclaimer stamp of any type or form will
10 be accepted on this bunker certificate, nor should any such stamp
11 . . . alter, change or waive U.S. Oil's Maritime Lien against the
vessel or waive the vessel's ultimate responsibility and liability
for the debt incurred through this transaction.

12 27. USOT's bunker delivery receipt also states:

13 **MARITIME LIENS:** All disputes arising out of this transaction
14 shall be interpreted and enforced in accordance with the general
15 maritime law of the United States of America and all statutes
related thereto.

16 28. On or about October 29, 2014, USOT issued its Invoice No. BWTD
17 83463 to OWB in the amount of \$1,315,507.80 for the delivery of bunkers to the vessel. A true
18 and accurate copy of USOT's Invoice No. BWTD 83463 is attached hereto as Exhibit 6.

19 29. Pursuant to Invoice No. BWTD 83463, payment was due to USOT on or
20 before November 28, 2014.

21 30. USOT has not been paid by the vessel or OWB for the amounts due
22 under Invoice No. BWTD 83463 despite repeated demands by USOT for payment.

23 31. The failure of OWB, or anyone else on behalf of the vessel, to pay for
24 the bunker fuel furnished to the vessel creates a maritime lien by operation of law against the
25 vessel in favor of USOT.

1 32. USOT possesses a maritime lien against the vessel for the full amount of
 2 due under USOT's Invoice No. BWTD 83463, plus interest and costs.

3 33. USOT has the right to exercise all the rights and remedies provided to
 4 holders of maritime liens, including the right to enforce its maritime lien against the vessel
 5 pursuant to the Commercial Instruments and Maritime Lien Act, 46 U.S.C. §§ 31301, *et seq.*

6 34. USOT has suffered damages as a result of the failure of the vessel to pay
 7 the amounts owed for the bunker fuel furnished to the vessel by USOT.

8 **WHEREFORE**, plaintiff USOT prays:

- 9 a. That judgment in the sum of \$1,414,594.53 be entered in favor
 of plaintiff and against the M/V VIENNA EXPRESS, *in rem*,
 together with interest, costs and attorneys' fees;
- 10 b. That judgment in the sum of \$1,315,507.80 be entered in favor
 of plaintiff and against the M/V SOFIA EXPRESS, *in rem*,
 together with interest, costs and attorneys' fees;
- 11 c. That process in due form of law issue against the Vessels
 pursuant to Rule C of the Supplemental Rules for Admiralty or
 Maritime Claims and Asset Forfeiture Actions, citing any
 claimant to the Vessels to appear and answer under oath all and
 singular the premises alleged in the Verified Complaint;
- 12 d. That the LOU be applied to satisfy USOT's maritime lien and
 the judgment herein against the M/V VIENNA EXPRESS,
 together with interest, costs and attorneys' fees;
- 13 e. That the M/V SOFIA EXPRESS, her tackle, boilers, apparel,
 furniture, engines, appurtenances, etc., be condemned and sold
 and the proceeds of the vessel be applied to costs and expenses
 associated with this action, and then applied to USOT's maritime

lien to satisfy the judgment herein, together with interest, costs and attorneys' fees; and

f. That plaintiff have such other, further and different relief as this Court may deem just and proper in the premises.

DATED this 17th day of December, 2014.

NICOLL BLACK & FEIG PLLC

/s/ Christopher W. Nicoll

/s/ Jeremy B. Jones

Christopher W. Nicoll, WSBA #20771

Jeremy B. Jones, WSBA #44138

Attorneys for Plaintiff

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**LAW OFFICES OF
NICOLL BLACK & FEIG**
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VERIFICATION

I, THOR A. NIELSEN, am an authorized representative of plaintiff, U.S. OIL TRADING LLC, and make this Verification by authority for and on its behalf; I have read the foregoing Verified Complaint, know the contents thereof, and from information officially furnished to me believe the same to be true. I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 16, 2014.

U.S. OIL TRADING LLC

U.S. OIL TRADING LLC
Q. A. R. J. L.

By : Thor A. Nielsen
Treasurer